

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBERT H. FRANK,

Petitioner,

v.

U.S. PAROLE COMMISSION,

Respondent.

ORDER

07-C-548-C

Petitioner Robert Frank is a prisoner at the Federal Correctional Institution in Oxford, Wisconsin. He has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and asked for leave to proceed without prepaying the \$5 filing fee. Unfortunately, the affidavit of indigency petitioner filed with his petition is not useful by itself to learn whether petitioner is indigent for the purpose of filing a § 2241 petition. He still needs to submit a trust fund account statement for the past six-month period. See Longbehn v. U.S., 169 F.3d 1082 (7th Cir. 1999).

Once petitioner submits his trust fund account statement, this court will figure out whether he qualifies to proceed without paying the filing fee. The court makes this decision by following these steps:

- First, the court will average the dollar amount of petitioner's monthly deposits over the six-month period.
- Second, the court will average the dollar amount petitioner's monthly balances over the same period.
- If 20% of the larger of these two amounts is \$5 or more, petitioner will have to prepay the \$5 filing fee.
- If 20% of the greater of these two figures is less than \$5, he will have to prepay whatever that amount is.
- If petitioner has had no income over the past six months, he will not have to prepay any portion of the \$5 filing fee.

In light of this explanation, petitioner may be able to figure out for himself whether he must pay some or all of the \$5 fee. If he knows he will have to pay the full \$5, he may send the court a check or money order made payable to the clerk of court in that amount. Otherwise, he should send the six-month statement requested above. Whatever avenue he chooses, petitioner should act quickly. If, by October 24, 2007, petitioner does not send the court either the \$5 payment or a trust fund account statement for the last six months, his request for leave to proceed in forma pauperis will be denied and this action will be closed.

ORDER

IT IS ORDERED that petitioner may have until October 24, 2007, in which either

1) to send the court a trust fund account statement for the period beginning approximately April 1, 2007 and ending approximately October 1, 2007; or

2) to pay the \$5 fee for filing his petition.

If, by October 24, 2007, petitioner does not pay the filing fee or submit the required trust fund account statement, the clerk of court is directed to close this case for petitioner's failure to prosecute.

Entered this 4th day of October, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge